

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To: <i>Henry JV</i> MURGITROYD & COMPANY Scotland House 165-169 Scotland Street Glasgow G5 8PL GRANDE BRETAGNE
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PCT

NOTIFICATION CONCERNING INFORMAL
COMMUNICATIONS WITH THE APPLICANT
(PCT Rule 66.6)

Date of mailing (day/month/year)	02.07.2009
Applicant's or agent's file reference P101097.WO.1	TRANSMITTAL FOR INFORMATION
International application No. PCT/GB2008/050210	International filing date (day/month/year) 21.03.2008
Applicant Pursuit Dynamics PLC.	

An informal communication took place on 16.06.2009, between the International Preliminary Examining Authority and the applicant / the agent.

A copy of the note on that communication (Form PCT/IPEA/428) is herewith transmitted for your information.

Name and mailing address of the international preliminary examining authority:  European Patent Office Gitschner Str. 103 D-10958 Berlin Tel. +49 30 25901 - 0 Fax: +49 30 25901 - 840	Authorized Officer Geier, Adolf Tel. +49 30 25901-706
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Vertrag über die internationale Zusammenarbeit auf dem Gebiet des Patentwesens
Patent Cooperation Treaty
Traité de coopération en matière de brevets

PCT

Application No.:

PCT/GB2008/050210

Note on an informal communication by telephone with the Applicant

A copy of this note is being sent to the Applicant for information

Participants

Applicant: Pursuit Dynamics PLC

Representative: Mr. Niall Hendry

Examiner(s): Schröder, Gunnar

Summary of the communication

The Examiner called the applicant's representative to inform him that, although the previous novelty objections to claims 1 and claim 14 have been overcome by the amendments made in the new set of claims filed with the demand, there remain deficiencies in the application. These are the following:

1. Claims 1 and 14 are not considered to involve an inventive step. The newly introduced feature of the passage having a substantially constant diameter is the only distinguishing feature versus the closest prior art process of document D2. Notwithstanding a lack of clarity, this distinguishing feature is not considered to render the process of claim 1 or the apparatus of claim 14 inventive over the prior art process and apparatus.

The applicant submitted arguments to explain the resulting technical effect issuing from the presence of the distinguishing feature, and defended the position that the inclusion of this feature in the known process or apparatus did involve an inventive step.

The examiner took the applicant's arguments into consideration but announced that he would stick to his previously announced opinion.

2. The distinguishing feature itself, the passage having a substantially constant diameter, is not clear. The word "substantially" is only a vague definition and no clear cut limits are set with this expression. One could easily argue that in the example given in the application, in figure 2, the passage depicted in the figure is not substantially constant. Since this feature is the only distinguishing feature versus the process and apparatus of the closest prior art, it is important that the feature clearly differentiates the process or apparatus of the application from the known process or apparatus.

The applicant asked the examiner whether he could issue a second written opinion before proceeding to a preliminary examination report. The examiner explained that he would not do so, since the present case did not oblige him to do so, nor would it be readily foreseeable that an agreement would be reached after such a communication.

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16.06.2009

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Date

Schröder, Gunnar

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Authorized officer of IPEA